

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION**

|                                   |   |                           |
|-----------------------------------|---|---------------------------|
| UNITED STATES OF AMERICA,         | § |                           |
|                                   | § |                           |
| <i>Plaintiff,</i>                 | § | CASE NO. 7:08-cv-206      |
|                                   | § |                           |
| v.                                | § | Tract No. RGV-MCS-1022E-1 |
|                                   | § | RGV-MCS-1022E-2           |
| 1.22 ACRES OF LAND, MORE OR LESS, | § | RGV-MCS-1022E-3           |
| SITUATE IN HIDALGO COUNTY,        | § | RGV-MCS-1022E-4           |
| TEXAS; AND MARIA PENA FLORES,     | § |                           |
| ET AL.,                           | § |                           |
|                                   | § |                           |
| <i>Defendants.</i>                | § |                           |

**SECOND AMENDMENT TO COMPLAINT IN CONDEMNATION**

On July 1, 2008, this proceeding commenced with the filing of a Complaint (Docket No. 1) and Declaration of Taking (Docket No. 2) in this Honorable Court in the name of the United States of America for the acquisition of certain interests in land identified as Tracts RGV-MCS-1022E-1 (perpetual road easement), RGV-MCS-1022E-2 (temporary access easement), RGV-MCS-1022E-3 (temporary access easement) and RGV-MCS-1022E-4 (temporary access easement) situate in Hidalgo County, Texas. On November 22, 2010, the United States filed with the Court an Amended Complaint (Docket No. 8) and Amended Declaration of Taking (Docket No. 9) to clarify the descriptions of acquired Tracts RGV-MCS-1022E-1, RGV-MCS-1022E-2, RGV-MCS-1022E-3 (temporary access easement) and the accompanying plats and to add as defendants all remaining interested parties who were identified in the title examination.

It is now necessary to further amend the Complaint in Condemnation as follows:

1. This is an second amendment of a civil action brought by the United States at the request of the Secretary of the Department of Homeland Security, through the Director, Border

Patrol Facilities and Tactical Infrastructure Program Management Office, Facilities Management and Engineering, Office of Administration, United States Customs and Border Protection, Department of Homeland Security for the taking of certain stated interests in real properties, under the power of eminent domain through a Declaration of Taking, as amended, and for the determination and award of just compensation to the owners and parties in interest.

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1358.

3. The Estates in the properties taken herein is under and in accordance with the Act of Congress approved on February 25, 1931, as 46 Stat. 1421 and codified at 40 U.S.C. Section 3114, and the Act of Congress approved August 1, 1888, as 25 Stat. 357 and codified at 40 U.S.C. Section 3113, and any acts supplementary thereto and amendatory thereof; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, Stat. 3009-546, 3009-554, as amended and codified at 8 U.S.C. Section 1103(b) & note; and the Act of Congress approved October 4, 2006, as Public Law 109-295, Title II, 120 Stat. 1355, which appropriated the funds which shall be used for the taking.

4. The public purpose for which said Estates in said properties is taken is to construct roads, fencing, vehicle barriers, security lighting, and/or related structures designed to help secure the United States-Mexico border within the State of Texas.

5. The clarified legal descriptions and plats of the lands heretofore acquired in these proceedings, identified as Tract RGV-MCS-1022E-1, RGV-MCS-1022E-2, RGV-MCS-1022E-3, and RGV-MCS-1022E-4 are set forth in Schedules "CC" and "DD" attached hereto and made a part hereof, which are in lieu of Schedules "C" and "D" for said tracts attached to the original Complaint in Condemnation (Docket No.1).

6. The clarified interest or estate in the lands already acquired in these proceedings, identified as Tract RGV-MCS-1022E-4, is set forth in Schedule "E" attached hereto and made part hereof.

7. Local and state taxing authorities may have or claim an interest in the property by reason of taxes and assessments due and eligible.

It is intended by this second amendment that the Complaint in Condemnation filed in this cause on July 01, 2008 (Docket No. 1) and the Amendment to Complaint in Condemnation (Docket No. 8) is not changed, and is not intended to be changed, in any respect except as herein above expressly set forth.

WHEREFORE, Plaintiff requests judgment that, to the extent not already established, just compensation be ascertained and awarded, and for such other relief as may be lawful and proper for acquired Tracts Tract RGV-MCS-1022E-1, RGV-MCS-1022E-2, RGV-MCS-1022E-3, and RGV-MCS-1022E-4.

Respectfully submitted,

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